

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, June 13, 2019
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #007-2019

Subject Property Information

Name & Address of Applicant	Konceptio Data Services, LLC PO Box 1284 Great Falls, MT 59403
Name & Address of Owner	Montana Innovations, LLC 600 South Main St Butte, MT 59701
Geo Code:	02-3015-21-4-01-01-0000
Parcel Number:	0002441400
Existing Zoning:	Suburban Residential 1 (SR-1)
Legal Description:	Section 21, Township 20 N, Range 3 E
Requested Action and Purpose:	Utility Installation, Minor
Total Land Area:	116.717 Acres
Adjacent Land Uses & Zoning:	North: SR1, Vacant/Residential City of Great Falls C2 & C3 Iceplex & Flying J Travel Plaza South: SR1, Vacant/Residential West: C, Undeveloped, Town Pump East: SR1, Vacant/Residential
Current Land Use:	Vacant/Undeveloped land
Applicable Regulations:	Sections 7.1.1.3 and 10 of the Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Konceptio Data Services, LLC to establish a minor utility installation for a Telecommunications Tower.

10.1 General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

10.4 Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings of Fact:

1. The property is in a Suburban Residential 1 (SR1) Zoned District. The proposed business is allowed in the Suburban Residential 1 (SR1) District pursuant to Section 7.1.1.3 (3), which reads, *"Use permitted upon issuance of a special permit... Utility Installation, minor."*
2. The applicant described the nature of the use as the relocation of an existing tower roughly 1000 ft away. The new location is to serve the same purpose as the existing tower.

3. The applicant has obtained a “Determination of No Hazard to Air Navigation” from the Federal Aviation Administration due to the proximity of the Great Falls International Airport.
4. The Great Falls Airport Authority and the Cascade County Public Works Department and City of Great Falls Public Works Department were solicited for comment. As of publishing this report staff has received no comments of concern.
5. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance.
6. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on May 29, 2019 and June 5, 2019. It was mailed to surrounding neighbors by first class mail on May 23, 2019. At the time of writing this report, staff has received no comments.
7. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
8. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

Applicant: The proposed tower is at least 100 ft away from the nearest road, 47th Ave SW, and does not generate any additional traffic as it is not a publicly accessible site.

Staff: Few additional trips will be generated as part of utility operations, it is not unreasonable to expect that there will be occasional visits to check on equipment, which would create a negligible impact.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: *Electrical power lines are within 150 ft, and will be handled by Northwestern Energy via normal new service setup procedure. No other utilities will be installed.*

Staff: This site will only require provision of power.

- c. Soil erosion and sedimentation.

Applicant: *There will be no change to the soil/ground, aside from a 3 ft x 3 ft concrete pad that sticks up 2 inches above ground level.*

Staff: Staff anticipates negligible impact to the soils.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: *There is no access to water supply from this location, and no surface or [ground] water will be affected by this project.*

Staff: Staff agrees with the applicant's assessment.

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: *This project is a 100 ft telecommunications tower, about 200 ft away from an existing tower that is taller, and we don't envision any conflicts with this tower, or others in the vicinity.*

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: This tower is replacing another tower about 1000 ft to the southwest. This new tower will continue to provide internet service to the Gore Hill area and most of the rural areas in SW Cascade County, including Ulm and Cascade (original tower location at 4511 31st St SW, permit #175-016).

Staff: Staff finds this project is in general compliance with this impact criteria. The provision of telecommunications has become a necessity in the modern world, and staff finds that allowing this service to be provided in a new location would allow the applicant's clients to continue to enjoy the same level of service they have come to expect.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: This tower will blend in with the surrounding area, as there are already 6 towers in the immediate vicinity. No conflicts are expected to arise.

- b. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Applicant: Konceptio Data Services, LLC provides high speed internet access to rural areas that would otherwise be unable to receive such services.

Staff: Staff finds that this application is in general compliance with this impact criteria. There are existing towers in the area, and it is not anticipated that moving one to a nearby location would create any adverse impacts.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and*

industries including agriculture, mining, manufacturing/processing and forest products.

Applicant: Reliable high speed internet access is an essential utility that we provide to residential and business customers in the Gore Hill area and the rural areas of SW Cascade County.

- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.

Applicant: This is not applicable to our project

- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.

Applicant: We are already providing high speed internet services in the area, and this tower is essential to continue doing so.

- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.

Applicant: Internet access is used in all facets of life, and we provide high speed internet services to businesses in the area.

- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.

Applicant: We provide internet services to many small businesses, in-home businesses, schools, and rural communities.

- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.

Applicant: We are members of the local Chamber of Commerce, an accredited business with the BBB, and we provide internet services to multiple government organizations.

- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.

Applicant: Internet access is used in all facets of life, and we provide internet services to local businesses.

- H. *Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*

Applicant: We provide internet services to businesses and residences in the area, allowing easy communication between communities near and far.

- I. *Encourage the growth of the agricultural economy.*

Applicant: By providing internet access to the rural areas around Great Falls, we make it possible for farmers and ranchers to have access to high speed internet.

- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: This is not applicable to our project.

Staff: This project is in general compliance with Goal 1 of the Growth Policy. This service has the potential to provide telecommunications to private citizens as well as businesses in the area. Access to reliable telecommunications is crucial to modern economic development and businesses and is expected to have a positive impact on the economic growth potential of the County. Staff has found that this will have a negligible impact on tourism, agriculture, or the renewable energy sector.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: We provide internet service to rural areas, allowing those who normally wouldn't have access [to] high speed internet the service they need, this includes farmers and ranchers who need the internet to run their businesses.

- B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: This is not applicable to our project as there are already 6 towers in the immediate vicinity.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: We are supporting existing towns and rural [developments] by providing internet access to [those] areas, which makes them a more [desirable] place to reside.

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

Applicant: Regular maintenance at our site will include keeping the ground free of litter, and electrical and structures in good repair and working order.

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

Applicant: This is not applicable to our project as we use none of these in our constructions process.

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: This is not applicable to our project because the location is not affected by either of these processes.

Staff: This project is in general compliance with Goal 2 of the Growth Policy. Staff finds that this proposal will facilitate objective A by potentially providing a vital resource to those who work in the agriculture and forestry sectors, and has not found that this project will have a detrimental impact on the historic relationship with natural resource development. The project will not have a negative impact on agriculture or forestry, and the impact on scenery and open space is unlikely to drastically change given the proximity to other, and larger towers. The site has not been identified as a Superfund or Brownfields site.

GOAL 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*

Applicant: This is not applicable to our project.

B. Continue to protect soils against erosion.

Applicant: Our site consists of a 3ft x 3ft concrete pad, with the surrounding area enclosed by a fence, which will protect against soil erosion.

C. Protect the floodplain from non-agricultural development.

Applicant: This is not applicable to our project as this location is well above the floodplain.

D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Applicant: This is not applicable to our project.

Staff: This project will have no immediate impact on agriculture in the County. The soil is not listed as prime farmland or farmland of statewide importance, and the project is not located in the Floodplain. When considering the entire project, staff finds that this will have a negligible impact on Goal 3.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

Applicant: This is not applicable to our project.

B. Promote the location of additional military missions in Cascade County.

Applicant: We provide internet service to the MANG Fire Station.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

Applicant: This is not applicable to our project.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: This is not applicable to our project.

Staff: Staff has not found that this proposal will have any detrimental impact on the US Military Mission in Cascade County, and in fact may have a positive one given that the Montana Air National Guard is a client of the applicant. The air navigation issue has been addressed by the FAA and the project is in the Height Military Overlay District (HMOD) Zone F, which prohibits the development of structures over 500 feet above the helicopter runway at Malmstrom AFB (3526 ft). The approximate elevation of this site is 3690 ft, which will still be below the regulatory threshold when a 100 foot tower is taken into consideration. $3690+100 < 3526+500$.

GOAL 5: *Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.*

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: *Providing internet service to rural areas enhances citizens' lives, and fosters independence.*

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: *This is not applicable to our project.*

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

Applicant: *We provide internet services to the Gore Hill Volunteer Fire Department and the MANG Fire Station so they are better able to perform their duties.*

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant: *This is not applicable to our project.*

Staff: Staff finds that this application is in general compliance with Goal 5 of the Growth Policy. The provision of telecommunication services is vital to rural residents allowing them to maintain their current lifestyle, but it is not expected that this application will have

any detrimental impact on the cultural heritage of the county, fire prevention, or educational programs, recreational opportunities, or health services.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

From the application information submitted, this operation would not be more objectionable to nearby properties by reason of noise, fumes, vibrations or flashing lights. This is an infrastructure improvement that will provide telecommunications services and provide opportunities for growth and development in the County. For these reasons, the Planning Division recommends approval of this Special Use Permit.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the minor utility installation for a telecommunications tower on the property, legally described as geocode 02-3015-21-4-01-01-0000, parcel 0002441400, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and findings of fact and **approve** the Special Use Permit to allow the minor utility installation for a telecommunications tower on the property, legally described as geocode 02-3015-21-4-01-01-0000 parcel 000241400, subject to the following conditions:
 1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

Attachments:

- Special Use Permit Application, Operational Statement, Site plan.
- Applicable Zoning Regulations, highlighted.
- Determination of No Hazard to Air Navigation

c: Heather Cummins, Konceptio Data Service